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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/814,086

03/31/2004

Heinrich Roder

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35684

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05/10/2005

BUTZEL LONG  
350 SOUTH MAIN STREET  
SUITE 300  
ANN ARBOR, MI 48104

EXAMINER

FERGUSON, MICHAEL P

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/814,086

Applicant(s)

RODER ET AL.

Examiner

Michael P. Ferguson

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 06/28/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: **20**. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT

Art Unit: 3679

- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

2. The disclosure is objected to because of the following informalities:

In the specification, page 2, lines 7-9 recites "According to... Claim 1.

Additionally... subordinate claims.". Lines 7-9 should be deleted.

Appropriate correction is required.

### ***Claim Objections***

3. Claims 2, 4, 5, 7 and 8 are objected to because of the following informalities:

Claim 2 (line 6) recites "whereby the upper and lower engaging sections". It should recite --whereby upper and lower engaging sections--.

Claim 4 (line 2) recites "engaging section (7,8) of the shell segment (1) is formed". It should recite --engaging sections (7,8) of each shell segment (1) are each formed--.

Claim 5 (line 2) recites "of the upper or lower connection component or washer segment". It should recite --of each washer segment--.

Claim 7 (line 2) recites "engaging section (7,8) of the shell segment (1) extends". It should recite --engaging sections (7,8) of each shell segment (1) extend--.

Claim 8 (line 1) recites "according to Claim 2". It should recite --according to Claim 5--.

Claim 8 (line 2) recites "of the upper or lower connection component or washer segment". It should recite --of each washer segment--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Draut (US 3,838,987).

As to claim 1, Draut discloses a locking device capable of vertical connection of an upper connection component **18**, that comprises an upper engaging section, to a lower connection component **19**, that comprises a lower engaging section, the locking device comprising two shell segments **11,12** that reach, in part, around the connection from the outside and in horizontal direction, with the shell segments comprising an

upper and a lower edge adjacent to each of which an upper and a lower engaging section facing the connection is provided so that, should the connection of the two connection components come apart, the upper engaging section of the shell segments is supported against the upper engaging section provided at the upper connection component, while the lower engaging section of the shell segments holds the lower engaging section of the lower connection component (Figures 1-3).

Applicant is reminded that orientation is based upon the angle at which an object is viewed.

As to claim 2, Draut discloses a locking device further comprising an upper and a lower washer **22,23** each being assembled of first and second washer segments, the washers being configured so that each can be pushed onto the connection from the outside and in horizontal direction, whereby, when installed, the upper washer **22** is fixed to the upper connection component **18** and the lower washer **23** to the lower connection component **19**, whereby upper and lower engaging sections are each formed on the respective washer segments (Figures 1 and 3).

As to claim 3, Draut discloses a locking device wherein the shell segments **11,12** are connected to each other in the installed state (Figure 2).

As to claim 4, Draut discloses a locking device wherein the engaging sections of each shell segment **11,12** are each formed by a projection that is formed from the upper or lower edge at an essentially right angle (Figure 1).

The applicant is reminded that patentability determination of product-by-process claims is based on the product itself, even though such claims are limited and defined

by the process. See MPEP § 2113. "The patentability of a product does not depend on its method of production. " In re Thorpe, 777 F.2d 695,698,USPQ 964,966 (Fed.Cir.1985).

As to claim 5, Draut discloses a locking device wherein the engaging section of each washer segment **22,23** is formed by a projection protruding from the outer perimeter of the washer segment (Figure 1).

As to claim 6, Draut discloses a locking device wherein the projection protruding from the outer perimeter is stepped (Figure 1).

As to claim 7, Draut discloses a locking device wherein the engaging sections of each shell segment **11,12** extend along the entire upper or lower edge (Figure 2).

As to claim 8, Draut discloses a locking device wherein the engaging section of each washer segment **22,23** extends along the entire outer perimeter (Figure 3).

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 3, 7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Tseng (US 6,616,112).

As to claim 1, Tseng discloses a locking device for vertical connection of an upper connection component **10**, that comprises an upper engaging section, to a lower

connection component **20**, that comprises a lower engaging section, the locking device comprising two shell segments **30,50** that reach, in part, around the connection from the outside and in horizontal direction, with the shell segments comprising an upper and a lower edge adjacent to each of which an upper and a lower engaging section facing the connection is provided so that, should the connection of the two connection components come apart, the upper engaging section of the shell segments is supported against the upper engaging section provided at the upper connection component, while the lower engaging section of the shell segments holds the lower engaging section of the lower connection component (Figures 1 and 4).

As to claim 3, Tseng discloses a locking device wherein the shell segments **30,50** are connected to each other in the installed state (Figure 4).

As to claim 7, Tseng discloses a locking device wherein the engaging sections of each shell segment **30,50** extend along the entire upper or lower edge (Figure 4).

As to claim 9, Tseng discloses a locking device capable of use as a pivot connection of a ceiling-mounted medical supply unit.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to locking devices:

Smith et al. (US 4,157,405), Mefferd (US 5,269,572), Kamenov (US 6,824,471) and Dable (US 3,159,047) are cited for pertaining to devices comprising shell segments and upper and lower washers.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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